

REMARKS

Claims 237-258 are in this case. Claims 252 and 256 have been amended to correct clerical errors that do not affect the scope of the claims.

Claim amendments

Claim 252 has been amended to correct its dependency. It now depends from claim 251. This amendment is a correction of an obvious typographic error.

Claim 256 has been amended to replace "neutral lipid" with "lipid aggregate." This amendment is an obvious typographic error in view of claim 255 from which this claim depends.

The amendments to the claims are supported in the specification, do not represent the addition of new matter and do not affect the scope of the claims.

The Rejections and Objections

Claim 252 is objected to as informal because it depends from itself. Claims 252 has been amended to depend from claim 251. It is clear from the context of the claim that it was intended to depend from claim 251. The amendment obviates the objection to the claim.

Claim 256 is rejected under 35 USC §112, second paragraph as indefinite for insufficient antecedent basis with claim 255 from which it depends. The claim has been amended as suggested by the Examiner to recite "lipid aggregate" in place of "neutral lipid."

Claims 237-258 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over at least over certain claims of copending (now allowed) U.S. application no. 09/438,365.

The present application and the allowed '365 application are commonly owned. An executed terminal disclaimer which complies with 37 CFR 1.321(c) is submitted herewith to overcome this rejection.

It is believed that this submission obviates the rejection.

The Information Disclosure Statement

An information disclosure statement was filed in this case on May 4, 2005. A copy of a postcard receipt (Appendix 2(b)) of the IDS submission indicates receipt by the US Patent Office of 115 pages of the submission. A review of the copy of the submission in our files indicates that the postcard listing of a total of 115 pages was incorrect. The IDS submitted included a total of 116 pages of which 114 pages were 1449 forms listing references. Of these 1449 forms, 113 pages represented the listing of references that had been cited in the parent application from which the present application claims priority. A copy of the previously submitted information disclosure statement with all 116 pages is resubmitted herewith as Appendix 2(a). The Office Action issued in this case on September 26, 2005 indicates receipt of only one page of the 1449 listing of references (an initialed form 1449). The PAIR system was checked on October 3, 2005 where only the Information Disclosure Statement and one page of 1449 forms have not been entered into the on-line record. The additional 1449 form pages have apparently not been scanned into the record. Applicant resubmits these forms here and respectfully requests that they be scanned into the record and that all of the references cited therein be considered by the Examiner on the record. Applicant respectfully requests copies of initialed 1449 forms indicating consideration by the Examiner. It is believed that no fees are due for the submission of this IDS.

Conclusion

It is believed that all of the claims in this case are allowable and passage to issuance is respectfully requested. This submission does not require the payment of excess claims fees. This response does not require a Petition for Extension of Time.

This Response is accompanied by a Terminal Disclaimer with the required fee of \$300.00. It is believed that this submission does not necessitate the payment of any (additional) fees under 37 C.F.R. 1.16-1.17. If the amount submitted is incorrect, please deduct from Deposit Account No. 07-1969 the appropriate fee for this submission and any extension of time required.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sally A. Sullivan", written over the typed name.

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